

# Exhibit C

IN THE CIRCUIT COURT OF MISSOURI  
CITY OF ST. LOUIS, 22nd JUDICIAL CIRCUIT, DIVISION 13  
Honorable Steven R. Ohmer, Judge

M [REDACTED] E [REDACTED], ET AL. )  
 )  
 Plaintiff, )  
 )  
 v. ) No. 1222-CC02479-01  
 )  
 ABBOTT LABORATORIES, INC., )  
 )  
 Defendant. )

VOLUME 3A  
TRIAL TRANSCRIPT  
MAY 12, 2015

## APPEARANCES

John E. Williams, Esq.  
John T. Boundas, Esq.  
on behalf of the Plaintiff.

Paul Strain, Esq.  
Dan Ball, Esq.  
on behalf of the Defendant.

JENNA HIGGINS, CCR #998G, CSR (MO & IL)  
OFFICIAL COURT REPORTER  
CITY OF ST. LOUIS  
TWENTY-SECOND JUDICIAL CIRCUIT

1 Law, which is based on evidence, and I know you're  
2 here to roll up your sleeves and make your decision  
3 based on evidence. So not forgetting about M [REDACTED],  
4 but I'm going to talk to you about evidence and what  
5 the evidence will be.

6 And since I want to talk to you about  
7 evidence, I thought we'd start off with evidence right  
8 out of M [REDACTED]'s mother's medical records, that in  
9 one medical record is a good summary of what was going  
10 on with the warnings her doctors got and the decisions  
11 M [REDACTED]'s mother, Tiffany Vititoe, made. This, as I  
12 said, is evidence right out of Ms. Vititoe's,  
13 M [REDACTED]'s mother's, medical record. You see,  
14 Mr. Vititoe was on Depakote, but she knew about birth  
15 defect risks, spina bifida risks, with Depakote and  
16 she wanted to get pregnant. So she switched off of  
17 Depakote on to another drug, Lamictal.

18 Now, this is two years. This is referring  
19 to a period of two years before M [REDACTED] was born.  
20 She had been on Lamictal in the past, but Lamictal  
21 didn't work for her. So she was switched back to  
22 Depakote because the seizures she was having was so  
23 dangerous. In fact, she requested to go back on  
24 Depakote. Her doctors agreed she needed to be on  
25 Depakote. And as her doctor writes -- this is that

1 the one drug that's experimental for juvenile  
2 myoclonic epilepsy and you saw what disaster that was,  
3 they weren't going to use another -- they weren't  
4 going to use another experimental drug. And you saw  
5 that Dr. Jacoby, her doctor, when he was asked about  
6 his bottom line, is no matter what changes were made  
7 to the warning label, Depakote still may have been the  
8 best choice for her.

9           So what happened? Why did Ms. Vititoe get  
10 pregnant with M [REDACTED] even though she was aware of  
11 the risk and even though her doctor told her come talk  
12 to him before she gets pregnant? Ms. Vititoe was  
13 asked in out-of-court testimony how she got pregnant.  
14 She doesn't know. Obviously, we don't know. We know  
15 these things happen. It happens. And we're not  
16 faulting her for that or for anything as far as that  
17 goes. These things do happen. We don't know how it  
18 happened. We do know these things do happen. What we  
19 know, what we do know, is that Abbott warned the  
20 doctors and the doctors warned her and made sure she  
21 understood, and that's why I say you'll hear no  
22 criticism from us of her doctors or of her. No  
23 criticism at all.

24           Okay. I was going to switch to Part 3, Your  
25 Honor, and invite the jurors to take a break.

IN THE CIRCUIT COURT OF THE CITY OF ST. LOUIS  
STATE OF MISSOURI  
Honorable Steven R. Ohmer, Judge

M	B	, et al.,	)	
			)	
		Plaintiffs,	)	
			)	
		vs.	)	Cause No. 1222-CR02479-01
			)	
		ABBOTT LABORATORIES, INC.,	)	
			)	
		Defendant.	)	

**TRIAL TRANSCRIPT**

**VOLUME 3B**

**MAY 12, 2015**

On the 12th day of May, 2015, the above-entitled cause came on regularly for hearing before the Honorable Steven R. Ohmer, Judge of Division 13 of the Twenty-Second Judicial Circuit in the City of St. Louis.

ALICE M. BAKER, CCR #361  
OFFICIAL COURT REPORTER  
TWENTY-SECOND JUDICIAL CIRCUIT  
CITY OF ST. LOUIS

1           caused the spina bifida.

2                       Now, one of the things I think you'll find  
3           that's helpful in that respect is there are telltale  
4           signs that Depakote caused spina bifida. If a child  
5           has spina bifida or an adult has spina bifida caused  
6           by Depakote, there are telltale facial signs. There  
7           are facial distortions.

8                       So the question is does M[REDACTED] have that  
9           telltale sign that her spina bifida was caused by  
10          Depakote. And the answer is no. You saw her, she's  
11          a very pretty little girl without any distorted  
12          face. The answer is no, she does not have that  
13          characteristic. So that's a real important  
14          consideration for you in determining whether they  
15          even have proven that it is Depakote that caused the  
16          spina bifida.

17                      And then the question would -- the actual  
18          question would come, if not spina bifida, were there  
19          things in her life about her that made it more  
20          likely she would be more at risk for having a child  
21          with spina bifida than most women. And the answer  
22          is yes. Tiffany Vititoe was more at risk for having  
23          a child with spina bifida. Not because of Depakote,  
24          but because of other things in her life.

25                      And one of them was what her doctors called

1 morbid obesity. I'm not talking about and the  
2 doctors weren't talking about just ordinary  
3 overweight. This is morbid obesity that they  
4 diagnosed. And the evidence is that -- I'm not even  
5 sure the doctors know the reason for that, but a  
6 woman who is morbidly obese increases her chances of  
7 having a child with spina bifida more than two or  
8 three times as much as another woman.

9 In addition to that, Miss Vititoe smoked  
10 throughout the whole vulnerable period of her  
11 pregnancy. She smoked -- actually she smoked a pack  
12 a day. A pack of cigarettes a day. The medical  
13 fact is -- a lot of smoke, which is certainly a  
14 choice. But the -- maybe you enjoy smoking. I did  
15 it once myself. But the medical fact is for a  
16 pregnant woman that smoking creates risks to the  
17 unborn baby. That's just a plain medical fact.  
18 We'll explore the kind of risk that presents to the  
19 unborn baby.

20 Also, Ms. Vititoe did not take folic acid.  
21 What's called folate, folic acid. Folic acid is a  
22 vitamin that prevents spina bifida. Actually it was  
23 placed into -- nationwide into cereals at one point,  
24 for one reason only. To prevent spina bifida.  
25 That's what it does. That's not enough when a woman

1 certain things about her and in her life that  
2 increased her chance of having spina bifida, the  
3 answer is there were.

4 So, I'm talking about obviously during her  
5 pregnancy, which was 2002. So in 2002, these four  
6 things were true. These four things were true about  
7 the warnings her doctors got and the warnings her  
8 doctors gave her. Abbott had been warning about  
9 spina bifida just like the FDA told it to for 20  
10 years. Her own doctors knew there was a risk of  
11 spina bifida with Depakote and they acted on their  
12 knowledge. They acted on their knowledge by telling  
13 Ms. Vititoe about the risks and advising her not to  
14 get pregnant without talking to them first. And the  
15 FDA super warning -- that's my word for it. The FDA  
16 super warning, the Black Box warning, told the  
17 doctors Depakote can cause spina bifida. And  
18 Ms. Vititoe herself wanted to go back on Depakote,  
19 to get off Lamictal and all its problems, and go  
20 back on Depakote, and she knew the risks when she  
21 did that.

22 Now, I could end there, but -- because  
23 that's the -- Ms. Vititoe and her doctors and the  
24 warnings they got, that's the evidence. Abbott  
25 warned the doctors. They believed Depakote was